



February 29, 2000

Ms. M. Shannon Kackley
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-2000

OR2000-0743

Dear Ms. Kackley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133616.

The City of Garland (the "city") received a request for all offense reports for a named individual during a specified time period. The requestor also seeks an offense report, identified by the name of an involved person and the date, January 5, 2000. We note that the submitted information does not include a report that matches this description. As you have not submitted this report for our review, or raised an exception to disclosure which you contend applies to this specific report, if such a report is in your possession, it must be released to this requestor unless it is confidential. You claim that the request is for the compiled criminal history of this individual, and is therefore excepted from public disclosure by section 552.101 of the Government Code in conjunction with the right of privacy. We have considered the exception you claim and reviewed the submitted information.

We note that to the extent the requestor is asking for any unspecified records in which the named individuals is identified as a "suspect," the requestor, in essence, is asking that the department compile those individuals' criminal history. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such

information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990). The department, therefore, must withhold all compilations of criminal records which indicate that the individual was a suspect, pursuant to section 552.101. However, we note that in submitted report numbers W38N1710, PO4E0052, VO8A588, and V34F0705, the subject individual is not identified as a suspect. As these reports are not part of a compilation of this individual's criminal history, they are not excepted from disclosure by section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns".

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 133616

Encl Submitted documents

cc: Jannes North
933 Haverstraw Place
Mesquite, Texas 75149
(w/o enclosures)